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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/613,400	07/02/2003	Daniel Putterman	MEDB.P0010	2585

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EXAMINER	
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ART UNIT	**PAPER NUMBER**
2621	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/613,400	PUTTERMAN ET AL.	
	Examiner	Art Unit	
	Daquan Zhao	2621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *02 July 2003*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-31* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-31* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *02 July 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 16-30 are rejected under 35 U.S.C. 101 because claim 16 is directed to a plurality of instructions per se. "a computer readable medium **comprising** a plurality of instructions..." is directed to a plurality of instruction per se. When nonfunctional descriptive material is recorded on some computer-readable medium, in a computer or on an electromagnetic carrier signal, it is not statutory since no requisite functionality is present to satisfy the practical application requirement. Merely claiming nonfunctional descriptive material, i.e., abstract ideas, stored on a computer-readable medium, in a computer, or on an electromagnetic carrier signal, does not make it statutory. See Diehr, 450 U.S. at 185-86, 209 USPQ at 8 (noting that the claims for an algorithm in Benson were unpatentable as abstract ideas because "[t]he sole practical application of the algorithm was in connection with the programming of a general purpose computer."). Such a result would exalt form over substance. In re Sarkar, 588 F.2d1330, 1333, 200 USPQ 132, 137 (CCPA 1978) ("[E]ach invention must be evaluated as claimed; yet semantogenic considerations preclude a determination based solely on words appearing in the claims. In the final analysis under § 101, the claimed invention, as a whole, must be evaluated for what it is.") (quoted with approval in Abele, 684 F.2d at907, 214 USPQ at 687). See also In re Johnson, 589 F.2d 1070, 1077, 200 USPQ199, 206 (CCPA 1978) ("form of the claim is often an exercise in drafting"). Thus,

nonstatutory music is not a computer component, and it does not become statutory by merely recording it on a compact disk. Protection for this type of work is provided under the copyright law.

Claims 17-30 are also affected.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2, 3, 5, 7, 8, 10, 11, 16, 17, 18, 20, 22, 23, 25, 26 and 31 are rejected under 35 U.S.C. 102(b) as being anticipated by Hayashi (US 7,089,321 B2).

Regarding claim 1, Hayashi teaches a method for aggregating television programming in a personal video recording ("PVR") system, said method comprising the steps of:

- receiving a plurality of television signals (e.g. column 6, line 49- column 7, line 53, broadcast programs multiplexed in the digital satellite broadcast signal);
- tuning each of said television signals in one of a plurality of tuners (e.g. figure 2, tuner 11A and 11B, column 8, lines 36-55);

- buffering said television signals on a storage medium in at least one PVR media server (e.g. figure 2, hard disk 150, column 7, line 55-column 8, line 35);
- coupling a plurality of clients, over a network, to said PVR media server (e.g. figure 1, client device 1 and 2 are coupling to the server device 1);
- generating a request from a requesting client for a list of television programming from each of said PVR media servers on said network (e.g. column 27, lines 30-54);
- receiving, from each PVR media server, a list of television programming available through said respective PVR media servers (e.g. column 27, lines 30-54); and
- aggregating, at said requesting client, a list of television programming information available within said PVR system (e.g. column 27, lines 30-54);

Claims 16 and 31 are rejected for the same reasons as discussed in claim 1 above.

Regarding claims 2 and 17, Hayashi teaches transmitting buffered television signals from said PVR media server to said clients, so as to display television programs of said television signals at said clients (e.g. column 7, lines 15-20);

Regarding claims 3 and 18, Hayashi teaches discovering PVR media servers on said network (e.g. column 18, line 50 – lines 67).

Regarding claims 5 and 20, Hayashi teaches at least one PVR media server comprising a plurality of television tuners (e.g. figure 2, server with tuner 11A and 11B).

Regarding claims 7 and 22, Hayashi teaches live television (e.g. column 6, lines 64-67, satellite)

Regarding claims 8 and 23, Hayashi teaches television programming previously stored on said storage medium (column 8, lines4-12).

Regarding claims 10 and 25, Hayashi teaches aggregating a list of television programming by channel (e.g. figure 16, column 6, lines 20-24, channels 5, 8 and 7, also see column 27, table in EEPROM 104).

Regarding claims 11 and 26, Hayashi teaches aggregating a list of television programming by time slots (e.g. figure 16, column 6, lines 20-24, start time and end time, also see column 27, table in EEPROM 104).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 4 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hayashi (US 7,089,321) as applied to claims 1, 2, 3, 5, 7, 8, 10, 11, 16, 17, 18, 20, 22, 23, 25, 26 and 31 above.

See the teaching of Hayashi above.

Regarding claims 4 and 19, Hayashi does not specify a plurality of PVR media servers. It is noted that plurality of servers in the system is well known in the art. The examiner takes official notice for plurality of servers. It would have been obvious for one ordinary skill in the art at the time the invention was made to have used plurality of servers in the system to increase processing speed.

4. Claims 6 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hayashi (US 7,089,321) as applied to claims 1, 2, 3, 5, 7, 8, 10, 11, 16, 17, 18, 20, 22, 23, 25, 26 and 31 above.

See the teaching of Hayashi above.

Regarding claims 6 and 21, Hayashi fails to specify plurality of television service providers. The examiner takes official notice of plurality of television service providers since it is well known in the art. It would have been obvious for one ordinary skill in the art at the time the invention was made to have record television programs from plurality of service providers to reduce the time for the user to wait for the requested television program from difference service providers.

5. Claims 9 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hayashi (US 7,089,321) as applied to claims 1, 2, 3, 5, 7, 8, 10, 11, 16, 17, 18, 20, 22, 23, 25, 26 and 31 above and further in view of Kagle et al (US 2003/0,154,493 A1).

See the teaching of Hayashi above.

Regarding claims 9 and 24, Hayashi fails to specify determining whether television programming is unique from other television programming. Kagle et al teach determining whether television programming is unique from other television programming (e.g. paragraph [0012]). It would have been obvious for one ordinary skill in the art at the time the invention was made to incorporate the teaching of Kagle et al into the teaching of Hayashi to eliminate redundant recording to use storage efficiently (Kagle et al, paragraph [0012]).

6. Claims 12, 13, 14, 15, 27, 28, 29 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hayashi (US 7,089,321) as applied to claims 1, 2, 3, 5, 7, 8, 10, 11, 16, 17, 18, 20, 22, 23, 25, 26 and 31 above and further in view of Schein et al (US 6,002,394).

See the teaching of Hayashi above.

Regarding claims 12 and 27, Hayashi fail to specify aggregating a list of television programming by television shows. Schein et al teach aggregating a list of television programming by television shows (e.g. column 19, lines 20-40). It would have been obvious for one ordinary skill in the art at the time the invention was made to incorporate the teaching of Schein et al into the teaching of Hayashi for the user to promptly search his/her favorite television programs.

Regarding claims 13 and 28, Schein et al teach aggregating a list of television programming by television by genre (e.g. column 19, lines 20-40).

Regarding claims 14 and 29, Schein et al teach aggregating a list of television programming by television show episodes (e.g. column 19, lines 20-40).

Regarding claims 15 and 30, Schein et al teach aggregating a list of television programming by actors appearing in television shows (e.g. column 19, lines 20-40).

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Williams, Jr (US 6,195,797 B1); Rowe et al (US 5,812,123); Ellis et al (US 2005/0028208 A1); Vaughan et al (US 5,926,207).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daquan Zhao whose telephone number is (571) 270-1119. The examiner can normally be reached on M-Fri. 7:30 -5, alt Fri. off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tran Thai Q, can be reached on (571)272-7382. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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